

REMARKS

Claims 1-16 and 18-27 are pending in this application. Claim 17 has previously been cancelled without prejudice. Applicants have not amended any claims with this Response and therefore have not provided a listing of the claims. (37 CFR 1.121(c).)

Favorable reconsideration is respectfully requested.

I. Claim Rejections under 35 U.S.C. §103

A. Claims 1, 3-6, 11, 12, 14, 19-20, 22-23 and 25-27

Claims 1, 3-6, 11, 12, 14, 19-20, 22-23 and 25-27 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Mejslov (U.S. 6,123,690) in view of Douglas et al. (U.S. 6,749,589).

Applicants respectfully traverse the rejection based on Mejslov in view of Douglas et al. Applicants respectfully request reconsideration of the rejected claims in light of the traversals discussed below. Claim 1 recites a base having retention devices extending upwardly from an upper surface of the base and that the at least two arms of the connector are movable in a laterally inward direction, in a laterally outward direction and in an upward direction away from the base such that movement of the arms in either the laterally inward direction, the laterally outward direction or the upward direction allows disengagement of the arms from the retention devices. Claim 23 recites a releasable locking member extending upwardly from the upper surface for releasably connecting the infusion part to the connector. Claim 23 further recites that an arm of the connector is movable in a laterally inward direction, in a laterally outward direction and in an upward direction away from the base such that movement of the arm in either the laterally inward direction, the laterally outward direction or the upward direction allows disengagement of the arm from the upwardly extending releasable locking member. The upwardly extending retention devices (releasable locking member) engaging the flexible arm(s) advantageously permit a wider range of movement of the arm(s) for disengagement as opposed to a closed retention

Application Serial No. 10/594,048
Reply to Office Action mailed June 3, 2010
Response dated July 29, 2010

chamber that restricts the movement of the arms. These features are clearly not taught by Mejslov in view of Douglas et al.

As acknowledged by the Examiner on page 3 of the June 3, 2010 Office Action, the arms 23 of Mejslov are positioned in the groove 36 that restricts upward movement of the arms 23. The Examiner has cited Douglas et al. as providing guide pins 216/218 and bores 244/246 for guiding the connector into the infusion part. The Examiner further suggests elimination of the side grooves on Mejslov's device to allow the arms 23 to flex upward.

Applicants respectfully assert that the Examiner's rejection is improper for several reasons.

First, Mejslov teaches away from a device having separate guide means and locking means contrary to the modification to the Mejslov device made in the present rejection. Mejslov distinguishes U.S. 5,522,803 to Teissen-Simony having separate guide means and locking means. According to Mejslov, the Mejslov device provides an infusion device which is far less cumbersome from a manufacturing point of view and which provides for a simplified connecting process. (See Col. 1, lines 37-47 and 60-63 of Mejslov and FIG. 8 of Tiessen-Simony.) As discussed in the abstract of Mejslov, the infusion device includes "a guide means for guiding the connector with the needle into a correct position in relation to the housing, where the guide means has incorporated means for interlocking the connector and the housing. Hereby a simple and easier operable product is obtained." (Abstract.) Further, according to the summary of the invention of Mejslov:

"By incorporating the locking means in the guide means a much simpler construction can be obtained. At the same time the handling of the device has been simplified since there is no longer a need for observing several independent functional elements during the connection of the connector to the housing and since the combined guide and locking element can be configured somewhat larger within the limited dimensions of such a device." (Col. 2, lines 14-21.)

Although the "teaching, suggestion, motivation" test (TSM) is not to be used as a rigid doctrine, *KSR* still holds that it is legally insufficient to conclude that a claim is obvious just because each feature of a claim can be independently shown in the cited art. *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1732 (U.S. 2007). The mere mention of elements in a prior art reference does not prove that a claimed combination is obvious. *Id.* at 1732, ("[a] patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art."). Clearly, one skilled in the art would not be motivated to combine the pin/bore guides of Douglas et al. with the device of Mejslov since Mejslov clearly teaches away from a separate guide.

Second, the proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference (M.P.E.P. § 2143.01). Mejslov clearly teaches a device incorporating the locking means in the guide means. (Col. 2, lines 14-15.) It is clear that elimination of the guiding means from the locking means as suggested by the Examiner would render the Mejslov device unsatisfactory for its intended purpose of providing a simpler and easier to operate device. Elimination of the guiding means from the locking means would also change the principle of operation of the Mejslov device that is designed to eliminate a need for observing several independent functional elements during the connection of the connector. (Col. 2, lines 16-18.) Therefore, the combination of Mejslov and Douglas et al. and the modifications proposed by the Examiner are improper.

Third, even if Mejslov and Douglas et al. could be combined, Mejslov and Douglas et al. fail to teach or suggest all the elements of claims 1 and 23.

As acknowledged by the Examiner, the arms 23 of Mejslov are positioned in the grooves 36 that restrict upward movement of the arms 23.

Douglas et al. is directed to an infusion set having connecting hub 206 including distally extending pins 216 and 218 which are inserted into and mate with complementarily placed and configured holes or bores in the cannula housing. (Col. 6, lines 46-49.) Clearly, Douglas et al. fails to teach or suggest a

base having retention devices extending upwardly from an upper surface of the base and that the at least two arms of the connector are movable in a laterally inward direction, in a laterally outward direction and in an upward direction away from the base such that movement of the arms in either the laterally inward direction, the laterally outward direction or the upward direction allows disengagement of the arms from the retention devices as required by claim 1. Douglas et al. also fails to teach or suggest a releasable locking member extending upwardly from the upper surface for releasably connecting the infusion part to the connector or that an arm of the connector is movable in a laterally inward direction, in a laterally outward direction and in an upward direction away from the base such that movement of the arm in either the laterally inward direction, the laterally outward direction or the upward direction allows disengagement of the arm from the upwardly extending releasable locking member as required by claim 23. Douglas et al. fails to make up the deficiencies of Mejslov. Together and individually, Mejslov and Douglas et al. fail to teach or suggest all the limitations of claims 1 and 23.

For at least these reasons, Applicants respectfully request that the rejection of claims 1, 3-6, 11, 12, 14, 19-20, 22-23 and 25-27 under 35 U.S.C. §103(a) be withdrawn.

B. Claims 2, 7, 8, 13 and 24

Claims 2, 7, 8, 13 and 24 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Mejslov and Douglas et al. and further in view of Marggi et al. (U.S. 2001/0053889).

Marggi et al. has been cited for disclosing an infusion set having symmetry about the main plane of the infusion set and for disclosing an adhesive affixed to the bottom of the infusion housing.

Applicants respectfully traverse the rejection. Dependent claims 2, 7, 8, 12 and 24 depend ultimately from independent claim 1 or 23 that were patentably

Application Serial No. 10/594,048
Reply to Office Action mailed June 3, 2010
Response dated July 29, 2010

distinguished from Mejslov and Douglas et al. above. Marggi et al. cannot make up the deficiencies of Mejslov and Douglas et al.

Therefore, Applicants respectfully request that the rejection of claims 2, 7, 8, 12 and 24 be withdrawn.

C. Claims 9 and 18

Claims 9 and 18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Mejslov and Douglas et al. and further in view of Wojcik (U.S. 6,572,586).

Wojcik has been cited for teaching plastic materials such as polypropylene, polycarbonate or polyurethane.

Applicants respectfully traverse the rejection. Dependent claims 9 and 18 depend from independent claim 1 that was patentably distinguished from Mejslov and Douglas et al. as discussed above. Accordingly, claims 9 and 18 are also distinguished over Mejslov and Douglas et al. Wojcik cannot make up the deficiencies of Mejslov and Douglas et al.

Therefore, Applicants respectfully request that the rejection of claims 9 and 18 under 35 U.S.C. §103(a) be withdrawn.

D. Claim 10

Claim 10 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Mejslov in view of Douglas et al. and further in view of Reiterman (U.S. 3,670,727).

Applicants respectfully traverse the rejection. Dependent claim 10 depends from independent claim 1 that was patentably distinguished from Mejslov and Douglas et al. as discussed above. Reiterman has been cited for teaching infusion set wings of a different color. However, Reiterman cannot make up the deficiencies of Mejslov and Douglas et al.

Therefore, Applicants respectfully request that the rejection of claim 10 under 35 U.S.C. §103(a) be withdrawn.

E. Claims 15 and 16

Application Serial No. 10/594,048
Reply to Office Action mailed June 3, 2010
Response dated July 29, 2010

Claims 15 and 16 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Mejslov and Douglas et al. and further in view of Brantigan (U.S. 3,893,448).

Applicants respectfully traverse the rejection. Dependent claims 15 and 16 depend from independent claim 1 that was patentably distinguished from Mejslov and Douglas et al. as discussed above. Brantigan has been cited for teaching a needle made of silicon rubber. However, Brantigan cannot make up the deficiencies of Mejslov and Douglas et al.

Therefore, Applicants respectfully request that the rejection of claims 15 and 16 under 35 U.S.C. §103(a) be withdrawn.

F. Claim 21

Claim 21 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Mejslov and Douglas et al. and further in view of Wojcik (US 2002/0077599) and in view of Gaba (U.S. 5,697,907).

Applicants respectfully traverse the rejection. Dependent claim 21 depends from independent claim 1 that was patentably distinguished from Mejslov and Douglas et al. as discussed above. Wojcik has been cited for teaching a slidable member longitudinally slidable within the housing. Gaba has been cited for teaching a retainer that pivots. Wojcik and Gaba cannot make up the deficiencies of Mejslov and Douglas et al.

Therefore, Applicants respectfully request that the rejection of claim 21 under 35 U.S.C. §103(a) be withdrawn.

II. Summary

In view of the foregoing, Applicants respectfully assert that the application is in condition for allowance. Allowance of the present claims is earnestly solicited.

Application Serial No. 10/594,048
Reply to Office Action mailed June 3, 2010
Response dated July 29, 2010

Should the Examiner wish to discuss any of the above submissions in more detail, the Examiner is asked to please call the undersigned at the telephone number listed below.

Respectfully submitted,

Dated: July 29, 2010



Heidi A. Dare
Registration No. 50,775
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610
(312)321-4200